

**To:** CN=Karen Schwinn/OU=R9/O=USEPA/C=US@EPA[]  
**Cc:** CN=Erin Foresman/OU=R9/O=USEPA/C=US@EPA[]  
**From:** CN=Carolyn Yale/OU=R9/O=USEPA/C=US  
**Sent:** Mon 4/11/2011 4:29:24 PM  
**Subject:** Re: a little more about the Delta Plan- basis for comments

Sam H. explained that most work on this is being done by the consultants (I believe it's Jones and Stokes; SH added that the consultants are actually better equipped for the planning topics than for the water issues). The DSC staff themselves probably don't have the background-- and certainly not the agency affiliation-- to really focus on land use issues. Apparently one of the DSC members who is also on the DPC (Don Notolli-- DPC Chair) is the 'liaison'/leader in these matters.

The provisions I quoted below may not amount to much, given the way it's been set up. The more successful (or at least well-known) 'land use oversight' processes use a more complex planning and review/permit approach that was first set in place during a period when the political and legal stars aligned. Since that time, we've moved into deeper into hard core property rights sentiment, reinforced by the S. Court. ....

But that's no reason not to try to put some substance to the Delta plans. In addition to policy provisions (such as you'd find in a general plan), I continue to hold out some hope in improving local 'standard practices.' It's not clear to me how the section I quoted below will play out ('local and regional planning documents' is pretty broad). I'm not up-to-date on all these matters, but, considering that almost half of my working years and most of my professional training revolved around land use and resource planning and regulation, I retain some interest.

C

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**From:** Karen Schwinn/R9/USEPA/US  
**To:** Carolyn Yale/R9/USEPA/US@EPA, Erin Foresman/R9/USEPA/US@EPA  
**Date:** 04/08/2011 03:40 PM  
**Subject:** Re: a little more about the Delta Plan- basis for comments

Thanks Carolyn. I hadn't focused on this when law was passed. From a practical standpoint, I wonder what DSC can really do on these things with their level of staffing.

----- Original Message -----

**From:** Carolyn Yale  
**Sent:** 04/08/2011 02:17 PM PDT

To: Karen Schwinn; Erin Foresman  
Subject: a little more about the Delta Plan- basis for comments  
Hi -

First, you may have noticed a typo in my red text (previous email)-- extra "a" at end of this phrase: WQ P1 suggests that the Water Boards are responsible for implementing measures (under a TMDL, for example) needed to meet water quality standards. However, achieving and protecting good water quality is often dependent on a local ...

We encourage the Plan to expand on ways to guide and evaluate these kinds of actions for consistency with Delta Plan objectives related to water quality.

The section that I referred to re 'consistency' is:

85212. The council shall review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents, including sustainable communities strategies and alternative planning strategies prepared pursuant to Section 65080 of the Government Code, with the Delta Plan. The council's input shall include, but not be limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs. A metropolitan planning organization preparing a regional transportation plan under Section 65080 of the Government Code that includes land within the primary or secondary zones of the Delta shall consult with the council early in the planning process regarding the issues and policy choices relating to the council's advice. No later than 60 days prior to the adoption of a final regional transportation plan, the metropolitan planning organization shall provide the council with a draft sustainable communities strategy and an alternative planning strategy, if any. Concurrently, the metropolitan planning organization shall provide notice of its submission to the council in the same manner in which agencies file a certificate of consistency pursuant to Section 85225. If the council concludes that the draft sustainable communities strategy or alternative planning strategy is inconsistent with the Delta Plan, the council shall provide written notice of the claimed inconsistency to the metropolitan planning organization no later than 30 days prior to the adoption of the final regional transportation plan. If the council provides timely notice of a claimed inconsistency, the metropolitan planning organization's adoption of the final regional transportation plan shall include a detailed response to the council's notice.

As I read this, the council's reviews vary subtly depending on the topic: ecosystem, local general plan topics... , transportation, etc. But best to avoid the weeds. My overall take on the new law is that local land use oversight was approached very cautiously: Really, the Delta Protection Commission has greater clout over the planning policies/general plans through review and approval authority (but I don't see evidence of substance that would make that effective). The Commission also may comment and make recommendations to the Council with respect to relationship to the Commission's main plan (the Land Use and Resource Management Plan), for what that's worth. The new law did set up a more pointed 'accountability' requirement of an annual DPC report that, among other things, addresses effectiveness in determining consistency between general plans and its plan (LU/RMP). This can all get very heady.

For those of us who have time on our hands next week, the Council's Thursday meeting may get into the local issues.

C

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